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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,872	11/02/2003	Edwin Ho-Fai Lo		2871

34768 7590 10/25/2004
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EXAMINER

WONG, STEVEN B

ART UNIT PAPER NUMBER

3711

DATE MAILED: 10/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/605,872	Applicant(s) LO, EDWIN HO-FAI	
	Examiner Steven Wong	Art Unit 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-7,9,11-13,17 and 18 is/are rejected.
- 7) ☒ Claim(s) 3,4,8,10,14-16 and 19-22 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 7, 9, 11-13, 17 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Lacey (3,106,397). Regarding claim 1, Lacey discloses a ball toy comprising a core (31), a shell (48), a plurality of guide members (33-37) extending between the core and the shell and a plurality of displaceable weight members (43-47). Lacey also includes springs (81) for resiliently biasing the weight members to a predetermined position.

Regarding claim 7, the guide members are provided by a rigid rod (33-37) that extend between the core and shell portion.

Regarding claim 9, the weight members are slidably coupled to the guide member (note Figures 2 and 3).

Regarding claim 11, note Figure 9 showing a spherical core and spherical shell with the members being concentric.

Regarding claim 12, the guide members are uniformly distributed about the core (note Figure 8).

Regarding claim 13, note the rejection of claim 1. Further, the weight members (43-47) are inherently capable of creating a gyroscopic force when the ball is propelled.

Regarding claim 17, note the rejection of claim 12.

Regarding claim 18, note the rejection of claim 1.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2, 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lacey (3,106,397). Regarding claim 2, it is unclear if the spring in Lacey is coupled to the guide member. It would have been obvious to one of ordinary skill in the art to couple the spring to the guide member in order to have the spring retain its position during use.

Regarding claims 5 and 6, Lacey provides springs (61, 83) that are coaxial to the guide member. The length of the springs are incongruent. The resilience of the latch spring is seen as being incongruent with the resilience of the coil spring. In the alternative, it would have been obvious to one of ordinary skill in the art to have the latch spring and the coil spring be of different resiliences in order to have the latch spring easily trip and the coil spring forcibly extend the weight members from the toy.

Allowable Subject Matter

5. Claims 3, 4, 8, 10, 14-16 and 19-22 appear to read over the prior art of record.

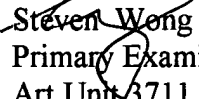
Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Wong whose telephone number is 703-308-3135. The examiner can normally be reached on Monday through Friday 7am-3:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 703-308-1513. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Steven Wong
Primary Examiner
Art Unit 3711

SBW
October 21, 2004